

BEFORE THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

STATE OF MISSOURI ex rel	)	
JOSEPH S. VON KAENEL,	)	
Relator,	)	
vs.	)	Case No. 15AC-CC00472
ALISA WARREN, Executive Director,	)	
MCHR,	)	
Respondent.	)	

ORDER

The Court takes up the pending cause for ruling on the pending Motion to Dismiss, having considered the arguments of counsel and the authorities cited therein. Being duly advised in the premises, the Court denies the Motion to Dismiss<sup>1</sup>.

Both Respondent and Intervenor have raised the issue of the timeliness of Relator's filing before this Court, citing § 213.085.2 which requires filing within thirty (30) days. Relator argues that the *Martin-Erb* decision, 77 S.W.3d 600, Mo banc 2002, boldly proclaims there is no time limit on filing a petition under § 536.150 RSMo other than reasonableness.

As noted in *Martin-Erb*, § 213.085 RSMo applies to decisions of the Commission, not that of the executive director. Review is under the more general § 536.150 RSMo. As such, Respondent and Intervenor may not rely upon the thirty (30) day limit set therein.

While mandamus may not be the proper remedy as Relator is seeking review of a decision and not the compelling of a ministerial act, Relator does set forth a claim for review under § 536.150 RSMo for review of a "non-contested" case.

The Motion to Dismiss is denied. Answers due within thirty (30) days. Case set on the

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<sup>1</sup> The Court rules only on the question of whether or not the Petitioner has stated a claim for review under § 536.150 RSMo and not on the merits of the question of whether or not Petitioner has stated a claim under the Missouri Human Rights Act. See *Spurgeon v. MCHCP*, Court of Appeals for the Western District, Slip Opinion February 2, 2016.

Exhibit  
E

5-13-2016 docket at 9:00 am for status.

SO ORDERED this 14<sup>th</sup> day of March, 2016.

A handwritten signature in black ink, appearing to read "J. E. Richey", is written over a horizontal line. The signature is fluid and cursive, with the first name "J." and last name "Richey" being the most legible parts.